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**FACSIMILE MESSAGE**

**To:** Office of Petitions  
Mail Stop Petition  
Commission for Patents  
United States Patent & Trademark Office

**Company:**  
**Phone:**  
**Fax:** 571-273-8300

**From:** Carla Eatwell  
Legal Department  
(410) 280-6412  
(410) 280-6412

**Phone:**  
**Fax:**

**Date:** March 7, 2006

**No. of Pages Including**  
**this cover page:** 3

**Re: Petition for Revival of an Application for Patent Abandoned Unintentionally under 37 CFR 1.137(b)**  
**Application No. 09/595,558**  
**Docket No. 373 US-C2**

Following is a Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b).

The Commissioner is hereby authorized to charge the required fees (petition fee \$1500 and balance of issue fee of \$510) to Deposit Account No. 14-1170.

Sincerely,

Carla Eatwell

This facsimile transmission contains legal and other information which is privileged and highly confidential. It is intended solely for the use of the designated individual or entity named above. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you received this in error call us at the number below and return the message to us at the below address. We will pay the postage.

6 Southgate Court, Annapolis, MD 21401, USA. Tel: (410) 280-6412. Fax: (410) 280-6412

PAGE 1/3 \* RCVD AT 3/8/2006 3:07:08 PM [Eastern Standard Time] \* SVR:USPTO-EFXRF-2/11 \* DNIS:2738300 \* CSID: \* DURATION (mm:ss):01:36

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PTO/SB/64 (10-05)

Approved for use through 07/31/2006. OMB 0651-0031  
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT  
ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)**

Docket Number (Optional)  
373US-C2

First named inventor: JONES, OWEN

Application No.: 09/595,658

Art Unit: 2644

Filed: 03/08/1999

Examiner: MEI, XU

Title: Variable Gain Active Noise Cancelling System with Improved Residual Noise Sensing

Attention: Office of Petitions  
Mail Stop Petition  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450  
FAX (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus an extensions of time actually obtained.

**APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION**

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
- (4) Statement that the entire delay was unintentional.

**1. Petition fee**

Small entity fee \$ \_\_\_\_\_ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

Other than small entity - fee \$ 1500 (37 CFR 1.17(m)) Adjustment date: 03/09/2006 TL0222  
07/21/2005 WASFAN2 00000066 141170 09595558  
01 FC:1506 690.00 CR

**2. Reply and/or fee**

A. The reply and/or fee to the above-noted Office action in the form of Part B - Issue Fee Transmittal (identify type of reply):

has been filed previously on 07/20/2005 03/09/2006 TL0111 00000025 141170 09595558  
01 FC:1453 1500.00 DA

is enclosed herewith.

B. The issue fee and publication fee (if applicable) of \$ 510 03/09/2006 TL0222 00000003 141170 09595558  
01 FC:1501 1400.00 DA

has been paid previously on \_\_\_\_\_

is enclosed herewith.

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This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1460, Alexandria, VA 22313-1460.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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MAR 08 2006

P70-0606 (04-02)

Approved for use through 07/31/2006. GPO 2005-0971  
U.S. Patent and Trademark Office U.S. DEPARTMENT OF COMMERCE

## 3. Terminal disclaimer with disclaimer fee

Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

A terminal disclaimer (and disclaimer fee 37 CFR 1.23(d)) of \$ \_\_\_\_\_ for a small entity or \$ \_\_\_\_\_ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/202/63).

## 4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

## WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed as a patent application that may contribute to identify them. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2036 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(e) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (37 CFR 1.14). Checks and credit card authorization forms PTO-2036 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

John Labovitz  
Signature3/8/2006  
DateJohn Labovitz, President  
Typed or printed name

Registration Number, if applicable

NCT Group, Inc.  
Address410-230-6112  
Telephone Number5 Southwest Court, Alexandria, VA 2231401  
Address

Enclosures:  Fee Payment  
 Reply  
 Terminal Disclaimer Form  
 Additional sheets containing statements establishing unintentional delay  
 Other: Authorized to charge Deposit Account

## CERTIFICATE OF MAILING OR TRANSMISSION (37 CFR 1.8(e))

I hereby certify that this correspondence is being:

Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office as (571) 273-6300.

Mar 8, 2006

Date

John Labovitz

Signature

Carrie Estes

Typed or printed name of person signing certificate

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